

# HOUSE BILL REPORT

## SHB 1575

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**As Passed House:**  
March 4, 2011

**Title:** An act relating to clarifying which surgical facilities the Washington state department of health is mandated to license pursuant to chapter 70.230 RCW

**Brief Description:** Clarifying which surgical facilities the Washington state department of health is mandated to license pursuant to chapter 70.230 RCW.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Green, Van De Wege, Moeller and Jinkins).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/9/11, 2/17/11 [DPS].

**Floor Activity:**

Passed House: 3/4/11, 97-0.

**Brief Summary of Substitute Bill**

- Defines "ambulatory surgical facilities" to include surgical suites primarily used for specialty surgery that are adjacent to a practitioner's office, regardless of the type of anesthesia used.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Bailey, Clibborn, Green, Harris, Kelley, Moeller and Van De Wege.

**Staff:** Chris Blake (786-7392).

**Background:**

The Department of Health began licensing ambulatory surgical facilities in 2009. An "ambulatory surgical facility" is defined as a distinct entity that primarily provides specialty

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or multispecialty outpatient surgical services and discharges patients within 24 hours of admission. There are three exemptions from this definition for: (1) dental offices; (2) hospital-affiliated ambulatory surgical facilities; and (3) outpatient surgical services that are routinely performed in the office of a practitioner that do not require general anesthesia. In implementing the licensing program, the Department of Health issued an interpretive statement that limited the licensing requirement to only those facilities that perform outpatient surgeries and use general anesthesia.

The Medical Quality Assurance Commission adopted rules in September 2010 that regulate office-based surgery. These rules establish standards for the performance of surgery in a physician's office where the physician uses moderate sedation, deep sedation, or major conduction anesthesia. The rules do not apply to procedures that: (1) use very low levels of sedation or anesthesia; (2) are performed in a hospital or ambulatory surgical facility setting; or (3) use general anesthesia.

**Summary of Substitute Bill:**

For licensing purposes, "ambulatory surgical facilities" are defined to include surgical suites that are adjacent to the office of a practitioner if the primary purpose of those suites is to offer specialty or multispecialty outpatient surgical services, regardless of the type of anesthesia used. The definition further specifies that the surgical suites may share certain features with the office of a practitioner, including a reception area, restroom, waiting room, and walls.

The exemption from ambulatory surgical facility regulation for outpatient surgical services routinely performed in a practitioner's office is limited by the condition that specialty and multispecialty services not be the primary purpose of the office. The exemption is further limited by providing that any surgical services in which the use of general anesthesia is planned, must be performed in an ambulatory surgical facility or a hospital.

Entities that had been licensed by the Department of Health as ambulatory surgical facilities as of July 1, 2009, and were later declared not to meet the definition of an ambulatory surgical facility shall be deemed as having complied with the survey requirement for their initial license applications as ambulatory surgical facilities.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2012.

**Staff Summary of Public Testimony:**

(In support) This is a clean-up bill. This bill is narrowly tailored to permit ambulatory surgical facilities that had once been licensed by statute to be eligible for licensure again. The Department of Health changed its interpretation of the law and limited licensure to only those that use general anesthesia and forced many facilities to relinquish their licenses. This

would restore eligibility for licensure as it was originally intended. The lack of licensure is detrimental to both the facilities and their patients.

Licensure assures the public that an ambulatory surgical facility is a quality medical establishment. Licensure is critical to ensuring that all ambulatory surgical facilities meet uniform standards for quality patient care. Current regulations are inadequate. The Department of Health does not have any authority over the management of an unlicensed ambulatory surgical facility nor its practitioners, absent a complaint. The Department of Health has no authority to inspect unlicensed ambulatory surgical facilities. Unlicensed ambulatory surgical facilities are not required to report adverse events.

(Opposed) None.

**Persons Testifying:** Emily Studebaker, Lisa Everson, and Bill Portuese, Washington Ambulatory Surgery Center Association.

**Persons Signed In To Testify But Not Testifying:** None.